



4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0084]

Petition for Waiver of Compliance

Under part 211 of title 49 of the Code of Federal Regulations (CFR), this provides the public notice that on August 21, 2017, the Norfolk Southern Corporation (NS) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations in 49 CFR part 214. FRA assigned the petition docket number FRA–2017–0084.

NS requests a waiver of compliance from § 214.336(c) as it pertains to procedures for adjacent controlled track movements at 25 miles per hour (mph) or less. NS indicates this request is specific to a unique working group, the R-3 Dual Rail Gang (R-3 Gang). This group is a system-level production gang comprised of 78 employees and 40 roadway maintenance machines with the capability to remove both rails while simultaneously installing both new rails. NS states no other railroad has a work group that operates in this manner to replace both rails; the relief requested in the waiver would apply only to this specific work group.

NS is seeking a waiver from using the gauge position of the rail as the point for the plane that is not to be broken on the occupied track. Instead, NS seeks to use the removed rails of the occupied track as an envelope for on-ground work performed exclusively between these rails for the employees working in the R-3 Gang. NS asserts the work can be performed safely within the context of the R-3 Gang's work. As described by NS in its

petition, during dual rail replacement, both rails are simultaneously removed from the track structure and positioned on the ballast against the outside of the crossties on the occupied track. In this position, the removed rail is nearly 16.75 inches closer to the adjacent controlled track than its normal gage position on the crosstie. Once the rails are removed from their normal position on the crosstie, an adzing machine is used to remove any tie cutting from the crosstie. At this point in the process, there is not a clearly defined outside limit with respect to “the on-ground work performed exclusively between the rails.” NS states that the removed rail lying on the ballast against the end of the crosstie provides a clear line of demarcation that is easily identifiable to its employees.

NS is also seeking a waiver from the requirement that on-ground work be performed exclusively between the rails (i.e., not breaking the plane of the rails) of the occupied track. Based on this request, NS seeks a waiver from compliance to allow up to four on-ground R-3 Gang employees (when working with one adjacent controlled track) and up to eight on-ground R-3 Gang employees (when working with two adjacent controlled tracks) to break the plane of the outside rail to perform minor work. NS indicates the employees would be limited in their duties for breaking the plane of the outside rail to only move tie plates with non-powered hand tools from the ballast to its position on top of the crossties. This minor work could be completed with the employees’ center of gravity positioned within the newly defined outside rails.

A copy of the petition, as well as any other written communications concerning the petition, is available for review online at www.regulations.gov and in person at the Department of Transportation’s Docket Operations Facility, 1200 New Jersey Ave. SE.,

W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, W12-140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue, SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 45 DAYS FROM PUBLICATION OF THIS NOTICE] will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its

processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of www.regulations.gov.

Robert C. Lauby,
Associate Administrator for Railroad Safety.

Chief Safety Officer.

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